

U.S. Department of Labor

Board of Contract Appeals
1111 20th Street, N.W.
Washington, D.C. 20036



INTERNATIONAL UNION, UNITED
AUTOMOBILE, AEROSPACE AND
AGRICULTURAL IMPLEMENT
WORKERS OF AMERICA (UAW)
Appellant

Case No. 86-BCA-7
Contract No. JC-78-008-49

v.

U.S. DEPARTMENT OF LABOR
Respondent

ORDER DENYING MOTION FOR RECONSIDERATION

On June 30, 1986 Appellant UAW filed a motion requesting this Board to reconsider its denial of the UAW's Motion to Transfer this case to a proceeding under the Comprehensive Employment and Training Act of 1973, 29 U.S.C. §801 et seq. (CETA) (Repealed 1982). For the reasons set forth below, the Appellant's motion will be denied.

In denying the original Motion to Transfer the Board concluded that the election of remedies asserted by the Appellant did not exist and that the proper tribunal for resolution of this matter was the Board of Contract Appeals. One basis for this conclusion was that the section incorporating CETA hearing procedures into the Job Corps regulations substituted the Job Corps Director for the CETA grant officer, but failed to mention the contracting officer. 20 C.F.R. §684.1(b)(2)(ii). The Board noted that the omission of the contracting officer provided additional support for its conclusion that CETA hearing procedures are only available to recipients of grants. The Appellant argues that the Job Corps Director or his designee acts in the capacity of a contracting officer on some occasions. Therefore, the UAW maintains that the substitution of the Director for the grant officer also implicitly substitutes the contracting officer. Assuming *arguendo* that the Director does sometimes act as a contracting officer, the Board's previous conclusion remains unchanged. The contract in question is not within the coverage of CETA hearing procedures and no election of remedies exists.

In its Motion for Reconsideration the UAW also argued that, under the Board's analysis of the regulatory framework, the regulations exceeded the scope of statutory authority. This Board does not deem itself empowered to pass upon the validity of these regulations, and therefore this argument will not be considered.

Accordingly, Appellant UAW's Motion for Reconsideration is hereby DENIED.

NAHUM LITT
Chief Judge
Chairman

E. EARL THOMAS
Deputy Chief Judge
Co-Chairman

GLENN R. LAWRENCE
Administrative Law Judge
Member of the Board

Dated: Sep. 4, 1986
Washington, D.C.

NL/JM/yw